

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 98-0311-01-CR-W-GAF
)	
EDWIN R. HINESTROZA,)	
)	
Defendant.)	

ORDER

Now pending before the Court is Defendant Hinestroza's Motion to Declare the Federal Death Penalty Act Unconstitutional.

On September 22, 2005, United States Magistrate Judge Sarah W. Hays issued her Report and Recommendation. On October 6, 2005, defendant filed his objections.

Upon careful and independent review of the pending motion, defendant's objections to the Magistrate's Report and Recommendation, as well as the applicable law, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of United States Magistrate Judge Sarah W. Hays.

Accordingly, it is hereby ORDERED that Defendant's Motion to Declare the Federal Death Penalty Act Unconstitutional is OVERRULED and DENIED.

SO ORDERED.

/s/ Gary A. Fenner
GARY A. FENNER, JUDGE
United States District Court

DATED: October 11, 2005